

REMARKS

Claims 1-3, 7, 11, 16, 17, 19-23, 25, 26, and 34-43 are pending. Claims 4-6, 8-10, 12-15, 18, 24, and 28-33 were previously canceled. Claims 27 and 44-51 are currently canceled.

Claims 1 and 2 are currently amended.

Reconsideration of the application, as amended, is requested. Entry of this amendment is respectfully requested since this amendment puts the application in condition for allowance.

Support for the amendments to claims 1 and 2 can be found, for example, in claim 27 and in the specification page 22, line 22 to page 23, line 3 and page 26, line 14 to page 28, line 30.

The undersigned acknowledges with appreciation the telephonic discussion of this amendment initiated by the Examiner on May 27, 2010.

§ 103 Rejections

Claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 stand rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899).

Claims 2, 40, 41 and 43 stand rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of de Navas Albareda (US 4,056,593) and Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899).

Insofar as the rejections are applied to the currently amended claims, they are respectfully traversed. On the last line of page 9, the Final Office Action states, "Buzzell et al. do not teach cutting the precursor laminate in the cross-direction as claimed." Slightly modified limitations from claim 27 including "cutting through the stretched mechanical fastening web laminate in the cross-direction" and "incorporating the portion into a component of a disposable absorbent article such that the male fastening elements are exposed and the fibrous web layer is not exposed" have been added to claims 1 and 2.

Claim 27 was rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899), as applied to claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 above, and further in view of Romanko et al. (US 6,484,371) and Conway (US 5,778,457). Applicants submit that in the rejection of claim 27 a proper *prima facie* case of obviousness was not made because the reasoning articulated in the Office Action for combining the references lacks the rational underpinning required by MPEP § 2141 III to support a legal conclusion of obviousness.

It is undisputed that Buzzell et al. suggests that the knitted material used to form the product shown in Fig. 13a functions as a loop for a hook-and-loop fastener. The rejected claims do not require a loop material and include the limitation that "the fibrous web layer is not exposed". The art relied upon for providing a nonwoven web loop material (Jackson) teaches that manufacturing steps beyond those needed to make a nonwoven web are needed in order to make a functioning loop material. In Jackson, a "plurality of discrete, multi-filament transversely expanded yarns" is adhered or otherwise attached to an orientable backing substrate, which could be a substantially consolidated nonwoven material. Applicants submit a person having ordinary skill in the art and common sense would not go through the extra steps and expense to make a loop material on the opposite side of a hook material simply to incorporate the loop material into a component of an absorbent article where it would not be exposed when other, more simple, less expensive fibrous materials could be used.

The Final Office Action states that Conway suggests "that such a configuration is effective for forming a sanitary napkin". However, Conway does not suggest that the opposite side of a hook material should be a loop material. In fact, Conway teaches about complications that arise when the pad upper surface 16 (Fig. 3) has yarn loops: multiple pads may not be able to be stacked on top of each other because the pads would stick together (see, e.g., col. 4, lines 48-55). Therefore, a person having ordinary skill in the art could readily envision difficulties of using hook materials with loops on the opposing side in manufacturing. When the "fibrous web layer is not exposed" as required in the rejected claims and loops are not needed, Applicants submit a person having ordinary skill in the art would not risk these difficulties.

The Final Office Action further states, "Additional motivation is provided by Kennedy et al. in that Kennedy et al. further teach that a backing material further facilitates applications requiring adhesive/glue (col. 3, lines 5-15)." However, Kennedy et al. also do not suggest that the backing material should be a functioning loop material. In fact, one of the reasons for a backing material, discussed in Kennedy et al. from col. 2, line 53 to col. 3, line 5, is for ease of application of an adhesive so that a loop material can be adhered to the back of the hook material. If the backing material was already a functioning loop, there would be no need to adhere additional loop materials to it.

For at least these reasons, the rejections lack the rational underpinnings required to establish a proper *prima facie* case of obviousness.

At least for the reasons given above, the rejection of claim 1 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899) has been overcome and should be withdrawn, and the rejection of claim 2 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of de Navas Albareda (US 4,056,593) and Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899) has been overcome and should be withdrawn.

Claims 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 depend directly or indirectly from claim 1. Claim 1 is patentable for the reasons given above. Thus, claims 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 are likewise patentable. Claims 2, 40, 41, and 43 depend directly or indirectly from claim 2. Claim 2 is patentable for the reasons given above. Thus, claims 40, 41, and 43 are likewise patentable.

In summary, the rejection of claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899) and the rejection of claims 2, 40, 41 and 43 under 35 USC § 103(a) as

being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of de Navas Albareda (US 4,056,593) and Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899) have been overcome and should be withdrawn.

Claim 3 stands rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899), as applied to claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 above, and further in view of Miller et al (US 6,054,091).

Claim 3 is dependent from claim 1. Claim 1 as amended is patentable at least for the reasons given above. Miller et al. does not provide evidence to refute the arguments presented above in the response to the rejection of claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42. Accordingly, the rejection of claim 3 under 35 USC § 103(a) as being unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899), as applied to claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 above, and further in view of Miller et al (US 6,054,091) has been overcome and should be withdrawn.

Claim 36 stands rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899), as applied to claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 above, and further in view of either of Song et al. (US 5,534,215) or Gebler et al. (US 3,324,218).

Claim 36 depends indirectly from claim 1. Claim 1 as amended is patentable at least for the reasons given above. Neither Song et al. nor Gebler et al. provides evidence to refute the arguments presented above in the response to the rejection of claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42. Accordingly, the rejection of claim 36 under 35 USC § 103(a) as being

unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899), as applied to claims 1, 7, 11, 16, 17, 19-23, 25, 26, 34, 35, 37-39 and 42 above, and further in view of either of Song et al. (US 5,534,215) or Gebler et al. (US 3,324,218) has been overcome and should be withdrawn.

Claims 44, 45 and 47-51 stand rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Jackson (US 5,699,593), Romanko et al. (US 6,484,371), and Conway (US 5,778,457) and anyone of Martin (US 6,942,896) or Semjonow (US 4,187,586) or Steuber (US 3,169,899).

Claims 44, 45 and 47-51 stand rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,598,276), Romanko et al. (US 6,484,371) and Conway (US 5,778,457).

Claim 46 stands rejected under 35 USC § 103(a) as purportedly unpatentable over Buzzell et al. (US 6,582,642), which incorporates Kennedy et al. (US 5,260,015) into the disclosure by reference, and further in view of Shepard et al. (US 6,598,276), Romanko et al. (US 6,484,371) and Conway (US 5,778,457), as applied to claims 44, 45 and 47-51 above, and further in view of Miller et al. (US 6,054,091).

Claims 44-51 are currently canceled; accordingly, these rejections are rendered moot.

In view of the above, it is submitted that the application is in condition for allowance.
Examination and reconsideration of the application, as amended, is requested.

Respectfully submitted,

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